

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	No. 1:14-CR-306
v.)	
)	The Honorable Gerald Bruce Lee
DOUGLAS DURAN CERRITOS,)	
)	
Defendant.)	

GOVERNMENT’S RESPONSE TO
DEFENDANT’S NOTICE OF FILING

The United States of America, by and through undersigned counsel, hereby files this response to defendant Douglas Duran Cerritos’s Notice of Filing, Doc. No. 803.

On March 28, 2016, this Court denied defendant Duran Cerritos’s Motion to Compel Discovery (Doc. No. 790), finding “that defense counsel are not entitled to the names of those individuals whose names are redacted in the FBI Form 302s that have been produced by the Government in this case.” Doc. No. 804 at 1. During a hearing on a related motion, the Court invited defendants to file additional motions identifying particular redacted information to which they believe they are entitled, if they are unable to reach agreement with the government. In response, the defendant filed the instant Notice of Filing, in which he listed the bates numbers of every FBI 302 which mentions his client and redacts the name of the person interviewed. Doc. No. 803. Defendant asserts that he is entitled to this information under Rule 16(a)(1)(E)(1). *Id.*

Contrary to defendant’s assertion, Rule 16 does not entitle him to know the identities of every individual who agreed to be interviewed by law enforcement and, during the course of the interview, mentioned the defendant. By providing the 302s in redacted form, the government

has made available the substance of the information conveyed during these interviews and has withheld only the identities of the interviewees.¹ Defendant does not identify any particular interview as material to his defense, nor does he claim that any of the information contained within these interview reports is exculpatory. Rather, he simply contends that he is entitled to the identities of these individuals under Rule 16. The Court has already properly rejected this argument, Doc. No. 804, and the defendant provides no additional supporting authority.

The government conferred with counsel for defendant Duran Cerritos in an attempt to resolve this matter. Counsel advised that he wishes to obtain the identities of the persons interviewed for the purpose of providing the names of those persons to his client. For this additional reason, the government strongly opposes disclosing the requested information. As the Court and the parties are well aware, the defendants in this case are members and associates of MS-13, a violent street gang known to intimidate and kill suspected cooperators and witnesses. On March 3, 2016, in accordance with the deadline set by the Court, the government provided *Jencks* and *Giglio* materials to defense counsel. These materials included information, such as plea agreements, which readily identified potential witnesses, including cooperating defendants. Since that time, the government has seen an increase in threats and intimidation to potential witnesses and their families.² The government has every reason to believe that providing this defendant with a list of all of the people who mentioned him to law enforcement would increase the danger to the people on that list as well as members of their families.

¹ The government does not anticipate calling any of the interviewees whose names were redacted as witnesses at trial.

² Should the Court wish to inquire further, the government is prepared to provide specific information regarding recent threats and intimidation to witnesses in an under seal *ex parte* filing or hearing.

Accordingly, to the extent that defendant's Notice of Filing is intended as a motion for additional disclosure, it should be denied.

Respectfully Submitted,

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/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd of April, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically generated a Notice of Electronic Filing to counsel of record.

/s/

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